COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 25, 2000

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v. CASE NO. PUE000470

COLUMBIA GAS OF VIRGINIA, INC.

RULE TO SHOW CAUSE

On August 23, 2000, the Staff of the State Corporation Commission ("Staff") filed a motion in the captioned matter. In that motion, Staff requested the Commission, pursuant to its authority under § 56-35 of the Code, to issue a rule to show cause, if any there may be found, why Columbia Gas of Virginia, Inc. ("Columbia Gas" or "the Company") should not be found in violation of Virginia Code §§ 56-234, 56-236 and 56-237 for failure to comply with the Company's filed tariffs, and why because of the Company's failure to cease such violations, the Commission should not impose fines and penalties pursuant to § 12.1-13 of the Code and enjoin the Company from further violations of §§ 56-234, 56-236 and 56-237 of the Code. The Staff further requested the issuance of a temporary injunction against the Company, upon notice and hearing, enjoining the

Company from further engaging in the aforesaid conduct pending the Commission's final determination in this matter.

The Staff, having conducted an investigation of this matter, alleges that:

(1) Columbia Gas of Virginia, Inc. is a Virginia public service corporation, holding certificates of public convenience and necessity to provide natural gas distribution service in all or parts of 51 counties and 19 cities in Virginia. The Company serves a total of approximately 172,727 customers in the Commonwealth.

(2) On August 2, 2000, the Division received a facsimile copy of correspondence from the Company bearing the same date, and addressed to Mr. Tom Lamm of the Commission's Division of Energy Regulation. The letter advised that Columbia Gas had begun adjusting residential customer billing with a temperature compensation factor. Information attached to this letter indicated that an average residential customer using 612 CCF of natural gas would experience a net bill increase of about $18.54 annually as a result of this new practice.

(3) The Company's applicable tariff set out below makes no express provision for temperature compensation adjustments. Second Revised Sheet No. 359 of the Company's tariff which was accepted for filing on January 11, 2000, includes the following relevant provision:

Low Pressure Accounts

The Quantity of Gas Determined by Meter Reading

> Except as otherwise indicated in an applicable schedule, the quantity of gas delivered to each Customer shall be ascertained by the readings of the meter furnished by the Company. The Company will read the meter once each month. As to any customer whose meter is unable to be read in a month, the consumption for the month shall be determined by calculation on the basis of the Customer's previous usage considering factors such as variations in weather, number of days in the period, the trend in seasonal usage, etc., in order to provide as nearly accurate a bill as possible without actually reading the meter.

According to Staff, the "applicable schedule" referred to in this tariff language means the rate schedule under which customers are served. In this case, the applicable schedule is Rate Schedule RS which also makes no reference to the application of a temperature adjustment factor.

(4) In response to the aforementioned Company letter, on August 3, 2000, Cody Walker, Assistant Director of the Commission's Division of Energy Regulation, requested, by letter, that the Company: a) discontinue the application of the temperature adjustment factor until the Company had satisfactorily demonstrated that it had explicit tariff authority to apply a temperature adjustment factor to low pressure accounts, b) provide a response to his letter, conveying the Company's decision to continue or discontinue the application of the adjustment factor, c) describe any authorization for this practice, and d) provide an estimate of

the increased annual revenue that will accrue from application of the adjustment factor.

(5) On August 9, 2000, the Company responded to Mr. Walker's letter of August 3, 2000, stating it had concluded that nothing in its tariff precluded the application of the adjustment. The Company's response also noted that it was unable to compute the annual revenue impact of the application of the temperature factor reliably. The response did note that the adjustment was being applied to 125,170 accounts.

(6) The enclosures to the Company's August 2 letter indicate that application of the temperature adjustment factor would increase an average residential customer's annual consumption from 612 CCF to 635 CCF, an increase of 23 CCF or 3.76 percent. Assuming that the 125,170 residential accounts subject to the temperature adjustment use an average of 612 CCF per year and current rates, application of the temperature factor will increase these customers' overall revenue requirement by $2.3 million, of which the Company's annual non-gas revenue, i.e., the portion it will keep, will increase by $796,882. The Staff notes that the exact increase that would result from the application of the adjustment will, of course, vary based on the specific usage characteristics of the affected customers.

(7) The Company began applying a similar adjustment to low pressure commercial accounts on May 6, 1998. The Staff states that then, as now, they questioned the Company regarding the appropriateness of that practice. The timing of the adjustment to commercial accounts coincided with the review of the Company's proposed rates in Case No. PUE980287. Consequently, the Staff proposed, and the Commission accepted, an adjustment to the Company's billing determinants to reflect application of the temperature adjustment to low pressure commercial accounts. According to the Staff, the rate adjustments resulting from these changes in the billing determinants made it unnecessary to make any changes in the Company's commercial tariff language.

(8) Temperature compensation adjustments for the Company's low-pressure commercial accounts discussed above, were accommodated through reductions in per-unit rates. Consequently (i) the Company did not realize an ongoing revenue increase, and (ii) the Commission-approved rates were consistent with the Commission's findings regarding the appropriate level of revenue approved for Columbia Gas. In contrast, however, the Company now proposes to apply temperature compensation adjustments to residential customers without any accompanying adjustments to billing determinants as was done in the case of the Company's commercial customers. The net result, according to Staff, is a rate increase of nearly $800,000 for these residential customers

that has no regulatory basis and is inconsistent with its filed tariffs.

(9) The Company's practice described above violates the Company's tariff and is inconsistent with the proper application of the Company's approved rates. Columbia Gas' approved rates were predicated on residential billing determinants that did not reflect an application of the temperature adjustment factor. Application of such an adjustment outside of a rate proceeding would increase the Company's revenues without Commission sanction or public hearing. Such an increase is also inconsistent with agreements entered into by Columbia Gas in support of approvals sought and received in Case No. PUA000024 under which the Company agreed that it would not seek base rate relief prior to October 31, 2001.

(10) The Company's application of the temperature factor coincides with expected increased gas costs. Natural gas costs have increased significantly in recent months and are expected to be higher during the coming winter. Application of the temperature factor during the winter months will also effectively increase gas costs to consumers during the winter and thereby compound the impact of home heating costs for consumers

(11) The Staff has requested that the Company cease this practice. To date, however, the Company has not discontinued this practice.

(12) The Staff Motion contended that the Company failed to follow its tariffs on file at the Commission in violation of Virginia Code §§ 56-234, 56-236, and 56-237. The Staff maintained that if the Commission determines that the Company's actions described herein are not in conformance with its tariff, the remedy of a refund to such customers may be wholly inadequate. For example, the Staff notes, Columbia's application of the temperature adjustment table during the month of February would increase a customer's consumption by approximately five percent. Based on current rates, a customer using 200 CCF of gas in February would experience an increase of approximately $9.12 as a result of the compensation factor. Increases of this magnitude, particularly when coupled with higher gas costs, could pose a financial burden to low- and fixed-income customers and increase the probability of their disconnection or the assessment of late payment charges against them. Furthermore, the Staff asserts, if the Commission determines that the Company is not entitled to such temperature adjustments and this practice is not suspended pending such a determination, these residential customers will likely be subject to additional—and confusing—Company charges thereafter

to recoup credits issued in the warmer months, beginning in August 2000.

NOW the Commission, having considered the Motion, is of the opinion and finds that it is appropriate to take evidence on the allegations set out in the Staff's Motion to determine whether the alleged violations occurred and, if so, whether the enforcement action and relief requested by the Staff are appropriate. The Commission has drawn no conclusions based on the allegations, but finds that the Company should be required to respond formally to them as provided below.

Accordingly, IT IS ORDERED THAT:

(1) This matter shall be assigned to a Hearing Examiner pursuant to Rule 7:1 of the Commission's Rules of Practice and Procedure, 5 VAC 5-10-520, to determine the issue of whether the temporary injunction requested by the Staff should be issued in this matter.

(2) The Company shall appear before the Hearing Examiner in the Commission's courtroom, located on the second floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, at 10:00 a.m. on September 11, 2000, and show cause why it should not be enjoined from further violations of §§ 56-234, 56-236, and 56-237 of the Code of Virginia and penalized pursuant to § 12.1-13 of the code of Virginia.

(3) Columbia shall file with the Clerk of the Commission, on or before September 5, 2000, an original and fifteen (15) copies of a Responsive Pleading in which it expressly admits or denies the allegations contained in this Rule to Show Cause. If Columbia Gas denies any of the allegations, it shall set forth in its Responsive Pleading a full and clear statement of the facts which it is prepared to prove by competent evidence that refute the allegations so denied. The Responsive Pleading shall be delivered to the Clerk, State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

(4) Columbia Gas shall be in default if it fails to file in a timely manner the Responsive Pleading, as set forth above, or if it files such pleading or fails to make an appearance at the hearing. In such event it shall be deemed to have waived all objections to the admissibility of the evidence, and it may have entered against it a judgment by default imposing some or all of the aforementioned sanctions. If the Company is in default, the Staff may establish its case through submission of the testimony of Staff's witnesses in this proceeding.

(5) On or before September 8, 2000, the Commission Staff shall file with the Clerk of the Commission a Reply to the Company's Responsive Pleading.